

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL NO. 04-12587-JLT
)	
v.)	
)	TOWN OF MASHPEE TRACT NO.
)	A-189-E
16.086 ACRES OF LAND, MORE OR)	
LESS, SITUATE IN BARNSTABLE)	
COUNTY, COMMONWEALTH OF)	
MASSACHUSETTS, AND EDWIN)	
ALFRED THOMPSON, MIGNON F.)	
THOMPSON, AND TONII C.T. DEAN,)	
)	
Defendants.)	
_____)	

UNITED STATES' MOTION FOR JUDGMENT AND DISTRIBUTION

1. The United States filed a Complaint in Condemnation, December 10, 2004, for the taking of an easement of 16.086 acres of land in the Town of Mashpee, Barnstable County, Parcel A-189-E, which is a portion of the land at 94 Ashumet Road, Mashpee. The land is particularly described in Schedule B, attached to the Declaration of Taking by Fred W. Kuhn, filed in this Court, and shown in a plan attached as Schedule C to said Declaration.

2. This Court has jurisdiction to determine the amount of just compensation for the easement and to whom such compensation should be awarded under Rule 71A, Federal Rules of Civil Procedure, and Title 40 U.S.C. section 258a.

3. The public uses for which said easement is taken are support of military aircraft operations, including lighting for aircraft take-offs and landings, and for other uses incident thereto at Otis Air National Guard Base, Mashpee, and for such other uses as may be authorized by Congress or by Executive Order. An aviation easement on this parcel was previously granted by William W. Spraggs to the United States, recorded at the Barnstable County Registry of Deeds in Book 1300, page 1146.

4. The authority for the taking is set forth by the Declaration of Taking of Fred W. Kuhn, Deputy Assistant Secretary of the Air Force, filed with the Complaint.

5. Pursuant to this Court's Order of January 6, 2005, the United States deposited a check for \$78,000, drawn on the United States Treasury, in the registry of this Court,

6. The United States filed a Motion for Order for Delivery of Possession of said property interest, which was granted by this Court on December 16, 2004.

7. The United States accomplished service of this action by hand delivery upon the Clerk, County of Barnstable, the Town Clerk, Town of Mashpee, the Office of the Secretary of the Commonwealth of Massachusetts, and Edwin Alfred Thompson of Atlanta, Georgia, and by certified mail, receipt returned, upon Tonii C. T. Dean, then of New Orleans, Louisiana, and Mignon F. Thompson of Woodstock, Georgia. A Notice of Condemnation was published in the Cape Cod Times on September 30, 2005, October 7, 2005, and October 14, 2005, and such Notice was recorded at the Barnstable County Registry of Deeds at Book 19699, Page 61. The United States complied with Rule 71A(d), Federal Rules of Civil Procedure and fulfilled the requirement of due process of

law as affording appropriate and reasonable opportunity to all persons having any interest in the parcel of land to appear and be heard on their own behalf.

8. In response to information provided by Edwin Alfred Thompson, the United States filed an Amended Complaint, June 15, 2005, which added Tonii C.T. Dean and Mignon F. Thompson as Defendants in the action. A Notice of Amended Complaint and the Amended Complaint was sent by certified mail to Tonii C.T. Dean and Mignon F. Thompson, and by regular mail to Edward Alfred Thompson and those entering an appearance in the action, Patrick J. Costello and Robert S. Troy.

9. No Answer or other objection to the Complaint or to any aspect of this proposed taking has been filed.

10. The just compensation payable by the United States for property is \$78,000, inclusive of interest. The amount of \$78,000 having previously been deposited with the Clerk of the Court, the United States requests that this Court find that the following individuals are entitled to an award of compensation: Edwin Alfred Thompson in the amount of \$39,000, Tonii C.T. Dean in the amount of \$19,500, and Mignon F. Thompson in the amount of \$19,500, each an heir of Venice T. and William W. Spraggs. No other individuals or entities have a property interest, including taxes due, in the land that is the subjection of this condemnation action.

11. The United States is entitled to refund of money deposited into the registry of the Court if such distribution cannot, although every effort has been expended, be made to said individuals within a period of five years, pursuant to 28 U.S.C. § 2042.

12. The United States requests that the Court sign an Order of Judgment and Distribution, so that the United States is able to record the Order in the Barnstable County Registry of Deeds. A proposed Order of Judgment and Distribution is attached hereto for the convenience of the Court.

WHEREFORE, the United States prays that this Court order that the easement on the property be condemned, pursuant to both the Declaration of Taking filed with this Complaint, and the Declaration of Taking Act, 40 U.S.C. § 3114, that the easement is fully vested in the United States, and that just compensation for the taking be distributed as above.

Respectfully submitted,

MICHAEL J. SULLIVAN
UNITED STATES ATTORNEY

By: /s/ Anita Johnson

Anita Johnson
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Of counsel:

Julie A. D'Esposito
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Certificate of Service

I hereby certify that I have served the foregoing upon Defendants Edwin Alfred Thompson, 154 Tonawanda Drive, S.E., Atlanta, Georgia 30315, Mignon F. Thompson, 7115 Bigwoods Drive at Huntgate Road, Woodstock GA 30188, and Tonii C.T. Dean, 421 Lakemont Drive, # 5E, College Park, Georgia 30337, and upon counsel for Barnstable County, Robert S. Troy, 90 Route 6A, Sandwich, MA 02563, and counsel for the Town of Mashpee, Patrick J. Costello, 67 Batterymarch St., Boston, MA 02110, by first class mail, postage prepaid, on this 11th day of August 2006.

/s/ Anita Johnson

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ORDER OF JUDGMENT AND DISTRIBUTION

A Complaint in Condemnation and Declaration of Taking having been filed in this action, this Court having granted the United States' Motion for Possession of the easement on the property named in this case, and, with the consent of the Court, the United States having deposited \$78,000 into the registry of the Court, and an Amended Complaint for condemnation having been filed, and the Defendants having been personally served, and service having been effected by publication, and the Clerk, County of Barnstable, the Town Clerk, Town of Mashpee, the Office of the Secretary of the Commonwealth of Massachusetts having been personally served, and no Answer or other objection having been filed, it is ADJUDGED AND ORDERED as follows:

1. The amount of \$78,000, inclusive of interest, is just compensation payable by the United States for the easement for the support of military aircraft operations, including lighting for aircraft take-offs and landings, and for other uses incident thereto at Otis Air National Guard Base, Mashpee, and for such other uses as may be authorized by Congress or by Executive Order, on Parcel A-189-E, which consists of a portion of 16.086 acres of the land at 94 Ashumet Road, Mashpee, Massachusetts, particularly described in Schedule B, attached to the Declaration of Taking by Fred W. Kuhn, Deputy Assistant Secretary of the Air Force, filed in this Court, and shown in a plan attached as Schedule C to said Declaration.

2. The Clerk of the Court shall forthwith draw and deliver a check to each of the owners of the property, Edwin Alfred Thompson in the amount of \$39,000, Tonii C.T. Dean in the amount of \$19,500, and Mignon F. Thompson in the amount of \$19,500. No other individuals or entities have an ownership interest in the land that is the subject of this action.

3. Said checks shall be in full and just compensation and satisfaction of any and all claims of whatsoever nature against the United States by reason of the taking of said easement on Parcel 189-E, and said easement is fully vested in the United States.

4. Upon completion of the foregoing, the Clerk of the Court shall certify that said compensation was distributed, -- or, if distribution was unable to be accomplished, despite every effort, the undistributed amount has been refunded to the United States -- and shall forward said certification to the United States Attorney's Office, and shall

